



HON. SYLVIA O. HINDS-RADIX
Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

PHILIP S. FRANK
Phone: (212) 356-0886
Fax: (212) 356-1148
pfrank@law.nyc.gov
(not for service)

August 29, 2023

By ECF

Honorable Katharine H. Parker
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

The deadline for Defendant's cross-motion and opposition brief is extended to **Friday, October 6, 2023**. The deadline for Plaintiffs' opposition and reply is extended to **Friday, November 3, 2023**. The deadline for Defendant's reply is extended to **Friday, November 24, 2023**. The oral argument previously scheduled on November 9, 2023 is rescheduled to **Thursday, December 7, 2023 at 10:00 a.m.** The settlement conference will proceed as previously scheduled on **October 18, 2023**. The Court is not likely to entertain any further extensions absent a showing of good cause that is unrelated to DOE staffing issues or the Thanksgiving holiday.

Re: *J.L., et al. v. NYC I*
No. 17-CV-7150 (F) **SO ORDERED:**

HON. KATHARINE H. PARKER
UNITED STATES MAGISTRATE JUDGE 8/30/2023

Your Honor:

I am the Assistant Corporation Counsel in the Office of the Corporation Counsel of the City of New York assigned to represent Defendants New York City Department of Education ("DOE") and DOE Chancellor David C. Banks in the above-referenced matter, in which Plaintiffs, parents on behalf of three students, allege that their rights were violated due to alleged systemic delays in providing coordinated nursing, transportation, and porter services.

I write to respectfully request an extension of time for Defendants to serve and file their cross-motion for summary judgment and opposition to Plaintiffs' motion. This is Defendants' second request for an extension. Defendants' first request sought an extension of time, until September 20, 2023. (*See* ECF No. 268.) The Court granted Defendants' first request until September 8, 2023, and directed that no further extensions would be entertained absent a showing of good cause. (*See* ECF No. 269.)

The good cause for this request consists of multiple, unforeseen staffing changes at both the DOE and this office that have directly impacted Defendants' drafting of the motion papers. First, a principal stakeholder at the DOE, whose review and drafting of portions of the motion papers has been critical, and who is also an affiant for Defendants' motion, recently took an unexpected and extended leave of absence, rendering her unable to work on the motion. Also, the lead attorney liaison assigned to this matter from the DOE Office of General Counsel recently

provided notice of her imminent resignation from the DOE the week that the motion is currently due, impacting her ability to work on the motion papers as she also works diligently on reassigning her other pending matters at the DOE.

With regard to the unanticipated staffing issues at this office, the attorney who had been assigned to work with me on the motion papers recently resigned from the office. And due to issues with staffing resources, this office has been unable to assign another attorney to work on the motion. Additionally, another attorney whom I supervise recently provided notice of his impending transfer to a different division, requiring unforeseen supervisory and professional obligations on my part in working to assist with the transferring of all his cases to different attorneys in my division. Finally, due to childcare coverage issues on my current annual leave from August 21, 2023 through September 1, 2023, it has been challenging for me to work on the motion without the assistance of the other attorney from my office who had been assigned to work with me on the motion papers.

The length of the requested extension also accounts for the Jewish holidays as well as the first day of school at the DOE next week, which is one of the busiest times of the year for the multiple DOE offices and principal stakeholders – including the Office of General Counsel, the Special Education Office, the Office of School Health, and the Office of Pupil Transportation – involved in the drafting and reviewing of the motion papers.

Plaintiffs' counsel object to the instant request on the grounds that the Court purportedly previously indicated that no further extensions would be granted and that the case has been pending for six years. The Court, however, directed no further extensions absent a showing of good cause, and Defendants' aforementioned, unexpected staffing changes, directly impacting the drafting of their motion papers, clearly constitute good cause. Plaintiffs also will not be prejudiced by the requested extension due to their own significant delays in the filing of their motion papers. Indeed, Plaintiffs effectively received a six-and-a-half-month extension to serve and file their motion papers, when Plaintiffs failed to meet their first deadline to file their motion papers and failed to seek an extension from the Court. (*See* Court Order dated March 21, 2023 (ECF No. 235), noting that Plaintiffs had not filed their motion by the past-due deadline.) As such, Plaintiffs' own delay belies any claim of prejudice here.

Accordingly, Defendants respectfully request that the Court grant an extension of time, from September 8, 2023 until October 6, 2023, for Defendants to serve and file their cross-motion for summary judgment and opposition to Plaintiffs' motion.

I thank the Court for its consideration of the within.

Respectfully submitted,

/s/

Philip S. Frank
Assistant Corporation Counsel

cc: All counsel (via ECF)